

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

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MACK TRUCKS, INC.,

Plaintiff,

v.

INTERNATIONAL UNION, UNITED  
AUTOMOBILE, AEROSPACE  
& AGRICULTURAL IMPLEMENT  
WORKERS OF AMERICA-UAW, et al.,

Defendants.

MARTIN RACHILLA, JOSEPH E.  
CRAIG, JR., JOHN R. WAHLER,  
RONALD L. ROYER, DOROTHY  
GANTZ, CHARLES CULLEY DAVID  
MOORE, on behalf of themselves and a  
similarly situated class, and  
INTERNATIONAL UNION, UNITED  
AUTOMOBILE, AEROSPACE &  
AGRICULTURAL IMPLEMENT  
WORKERS OF AMERICA – UAW,

Plaintiffs,

vs.

MACK TRUCKS, INC., and MACK  
TRUCKS, INC. RETIREE WELFARE  
BENEFIT PLAN,

Defendants.

Civil Action No. 2:07-cv-3737-RBS

R. BARCLAY SURRECK

**SUPPLEMENTAL MEMORANDUM**  
**IN SUPPORT OF**  
**JOINT MOTION FOR**  
**FINAL APPROVAL**

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In response to the Court's request at the hearing on September 7, 2011, Class Counsel and counsel for the International Union, United Automobile, Aerospace & Agricultural Implement Workers of America ("UAW") submit this supplemental memorandum in support of the joint motion for final approval of the Settlement Agreement.

***Designation of Independent VEBA Committee Members***

Section 3.1 of the Settlement Agreement provides that the Approval Order will designate the initial independent members of the VEBA Committee. Attached hereto as Exhibit A is a revised form Trust Agreement designating the following initial independent members of the VEBA Committee and their initial terms are submitted to the Court: Jack Martin, Francine Parker, Gary Petroni, and Suzanne Paranjpe. As discussed at the hearing, these Independent Committee Members already serve as Committee members for three UAW retiree VEBAs established under the settlements in: *In re Dana Corporation* (Bk. S.D.N.Y. No. 06-10534 (BRL)), *Groth et al v. Robert Bosch Corporation* (W. D. Mich. No. 1:07-cv-962), and *Sheick v. Automotive Component Carrier LLC* (E.D. Mich. No. 2:09-cv-14429). The attached revised Trust Agreement sets forth the initial compensation of the Independent Committee Members in Section 9.10(a) [Exh. A p. 16]

***Services Rendered by Experts***

The necessity of expert analysis had its genesis in the year 2007 discussions between the UAW and Mack Trucks, Inc. (“Mack”). Prior to the commencement of collective bargaining negotiations for a Master Agreement to succeed the 2004 Mack-UAW Master Agreement, Mack advised the UAW that health care cost inflation had adversely affected Mack’s ability to pay for the retiree medical program negotiated in prior agreements. The UAW began “an extensive and thorough investigation of Mack’s financial situation and the potential effects of the rapidly deteriorating truck market and global economy on Mack’s ability to continue funding retiree medical coverage or even to stay in business.” [Settlement Agreement, Art. II: ECF Docket #56-3, p. 8]. The UAW retained Leon Potok as a financial expert to review the financial data disclosed by Mack and to provide an analysis of Mack’s long-term ability to continue paying for

retiree medical benefits under the prior Master Agreement. Mr. Potok is the principal of Potok & Co., Inc., a New York financial advisory and investment banking firm with expertise in analyzing the financial conditions and operations of companies in connection with labor negotiations, corporate restructurings and debt and equity financings. [Potok declaration 1: ECF Docket #56-11]. Most of the fees charged under the Settlement for Mr. Potok's work were incurred during this preliminary phase, when Mr. Potok conducted his initial investigation and analysis. Mr. Potok's fees were paid at that time by Mack Trucks, under agreement with the UAW.

Beginning in 2008, Mr. Potok undertook an additional review to update his economic analysis, at that point in the context of discussions and analysis directed towards settling this litigation.

As discussions progressed, Class Counsel retained Dr. Nitin Paranjpe, an economist and a partner in Thomson Econometrics and Employment Research in Farmington Hills, Michigan. Dr. Paranjpe conducted an overview of Mack's business and finances in the context of the overall heavy truck manufacturing market. [Paranjpe declaration 4-5: ECF Docket #56-12]. He relied, among other things, on historical and recent data provided by Mack under agreement of confidentiality, and used regression analyses to predicate his conclusions about Mack's financial condition in both the short and the long terms. [*Id.*, relevant sections FILED UNDER SEAL]. Dr. Paranjpe's thorough research, analyses, and conclusions were essential to Class Counsel's independent conclusion that the proposed Settlement Agreement is "fair, reasonable, adequate, and in the best interests of the Class Members." [Settlement Agreement: ECF Docket #56-3, p. 8].

***UAW Outside Counsel Legal Fees***

UAW outside counsel, Cleary & Josem LLP, has submitted documentation of legal fees and costs separately.

Respectfully submitted,

SACHS WALDMAN P.C.

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Dated: Sept. 9, 2011

**CERTIFICATE OF SERVICE**

I hereby certify that on September 9, 2011, the foregoing document was filed electronically with the Clerk of Court using the ECF system which will send notification of such filing to attorneys of record.

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